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LAW DEPARTMENT

NOTIFICATION

The 1st October, 2011

No. 9620-Legis.-1/11/L.— The following Act of Parliament which is assented by the President on the 20th August, 2010 and published by the Government of India, Ministry of Law & Justice (Legislative Department) in the Gazette of India, Extraordinary, Part-II, Section-I, dated the 23rd August, 2010 is hereby republished for general information.

By Order of the Governor

D. DASH

Principal Secretary to Government

ACT NO. 26 OF 2010

ASSENTED TO ON 20TH AUGUST, 2010

THE SECURITIES AND INSURANCE LAWS (AMENDMENT AND VALIDATION)

ACT, 2010

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ACT

Further to amend the Reserve Bank of India Act, 1934, the Insurance Act, 1938, the Securities Contracts (Regulation) Act, 1956 and the Securities and Exchange Board of India Act, 1992.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Securities and Insurance Laws (Amendment and Validation) Act, 2010.

Short title and
commencement.

(2) It shall be deemed to have come into force on the 18th day of June, 2010.

“CHAPTER II**AMENDMENT TO THE RESERVE BANK OF INDIA ACT, 1934**

Insertion of
new Chapter
IIIE in Act 2 of
1934.

2. After Chapter IIID of the Reserve Bank of India Act, 1934, the following Chapter shall be inserted, namely:—

CHAPTER III E**JOINT MECHANISM**

Joint
Mechanism.

45Y. (1) Notwithstanding anything contained in this Act or the Securities and Exchange Board of India Act, 1992 or any other law for the time being in force, if any difference of opinion arises as to whether—

(i) any instrument, being derivative referred to in Clause (a) or money market instrument referred to in Clause (b) or repo referred to in Clause (c) or reverse repo referred to in Clause (d) or securities referred to in clause (e) of Section 45U of this Act;

or

(ii) any instrument, being policy of life insurance under the Insurance Act, 1938, or the rules or regulations made thereunder, or, scrips or any other securities referred to in sub-clauses (i), (ia), (ib), (ic), (id), (ie), (ii), (iia) and (iii) of Clause (h) of Section 2 of the Securities Contracts (Regulation) Act, 1956,

is hybrid or composite instrument, having a component of money market investment or securities market instrument or a component of insurance or any other instrument referred to in clause (i) or clause (ii) and falls within the jurisdiction of the Reserve Bank of India or the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 or the Insurance Regulatory and Development Authority established under section 3 of the Insurance Regulatory and Development Authority Act, 1999 or the Pension Fund Regulatory and Development Authority constituted by the Resolution of the Government of India number F.No. 1(6)2007-PR, dated the 14th November, 2008, such difference of opinion shall be referred to a Joint Committee consisting of the following, namely:—

(a) the Union Finance Minister — *ex officio* Chairperson;

(b) the Governor, Reserve Bank of India — *ex officio* Vice-Chairperson;

(c) the Secretary, Department of Economic Affairs, in the Ministry of Finance, Government of India — *ex officio* Member;

(d) the Secretary, Department of Financial Services, in the Ministry of Finance, Government of India — *ex officio* Member;

(e) the Chairperson, Insurance Regulatory and Development Authority — *ex officio* Member;

(f) the Chairman, Securities and Exchange Board of India — *ex officio* Member;

(g) the Chairperson, Pension Fund Regulatory and Development Authority — *ex officio* Member.

(2) The Secretary Department of Financial Services in the Ministry of Finance, Government of India shall be the convener of the meetings of the Joint Committee referred to in sub-section (1).

(3) In case of any difference of opinion referred to in sub-section (1), any Member of the Joint Committee referred to in clauses (b), (e), (f) or (g) of that sub-section may make a reference to the Joint Committee.

(4) The Joint Committee shall follow such procedure as it may consider expedient and give, within a period of three months from the date of reference made under sub-section (3), its decisions thereon to the Central Government.

(5) The decision of the Joint Committee shall be binding on the Reserve Bank of India, the Securities and Exchange Board of India, the Insurance Regulatory and Development Authority and the Pension Fund Regulatory and Development Authority.”.

CHAPTER III

AMENDMENT TO THE INSURANCE ACT, 1938

3. In the Insurance Act, 1938, in Section 2, after clause (11), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 9th day of April, 2010, namely:—

Amendment
of Section 2
of Act 4 of
1938.

‘*Explanation.*— For the removal of doubts, it is hereby declared that “life insurance business” shall include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment and a component of insurance issued by an insurer referred to in Clause (9) of this section.’.

CHAPTER IV

AMENDMENT TO THE SECURITIES CONTRACTS (REGULATION) ACT, 1956

4. In the Securities Contracts (Regulation) Act, 1956, in Section 2, in Clause (h), after sub-clause (id), the following *Explanation* shall be

Amendment
of Section 2
of Act 42 of
1956.

inserted and shall be deemed to have been inserted with effect from the 9th day of April, 2010, namely:—

‘Explanation.— For the removal of doubts, it is hereby declared that “securities” shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a combined benefit risk on the life of the persons and investment by such persons and issued by an insurer referred to in clause (9) of Section 2 of the Insurance Act, 1938.’.

4 of 1938.

CHAPTER V

AMENDMENT TO THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

5. In the Securities and Exchange Board of India Act, 1992, in section 12, in sub-section (1B), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 9th day of April, 2010, namely:—

Amendment
of Section 12
of Act 15 of
1992.

“Explanation.— For the removal of doubts, it is hereby declared that, for the purposes of this section, a collective investment scheme or mutual fund shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment besides the component of insurance issued by an insurer.”.

CHAPTER VI

MISCELLANEOUS

6. Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, the provisions of Section 2 of the Insurance Act, 1938 or Section 2 of the Securities Contracts (Regulation) Act, 1956 or section 12 of the Securities and Exchange Board of India Act, 1992, as amended by this Act, shall have and shall be deemed to always have effect for all purposes as if the provisions of the said Acts, as amended by this Act, had been in force at all material times and accordingly any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, issued or purported to have been issued at any time before the 9th day of April, 2010, shall be deemed and always deemed to have been validly issued and shall not be called in question in any court of law or other authority solely on the ground that it was issued without a certificate of registration under any law for the time being in force or without following any procedure under any law for the time being in force, by an insurer or any other person.

Validation.

4 of 1938.

42 of 1956.

15 of 1992.

7. (1) The Securities and Insurance Laws (Amendment and Validation) Ordinance, 2010 is hereby repealed.

Ord. 3 of
2010.

Repeal and
savings.

(2) Notwithstanding such repeal, anything done or any action taken under the Reserve Bank of India Act, 1934 or the Insurance Act, 1938 or the Securities Contracts (Regulation) Act, 1956 or the Securities and Exchange Board of India Act, 1992, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

2 of 1934.
4 of 1938.
42 of 1956.
15 of 1992.